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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,287	07/09/2003	Hiroyuki Takahashi	16816	9906

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EXAMINER	
JOHNSON III, HENRY M	

ART UNIT	PAPER NUMBER
3739	

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04/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/616,287	TAKAHASHI, HIROYUKI	
	Examiner	Art Unit	
	Henry M. Johnson, III	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 February 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *33-42* is/are pending in the application.

4a) Of the above claim(s) *41 and 42* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *33-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 December 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Arguments

Applicant's arguments filed on February 20, 2008 with respect to claims have been considered and are persuasive, however, the examiner takes the position that due to the difficulty in interpretation of the translation of the prior art, it is cannot be definitely determined if a clear anticipation of the claims is proper. Therefore, the rejections are restated as rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33-40 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Japanese Patent Application 2000-197252 to Takahashi. Takahashi teaches a control system for multiple medical devices comprising a first instrument control part (Fig. 7, # 112) with an output part (Fig. 7, # 113) connected to a first instrument in a probe (Fig. 7, # 105) via a connector (Fig. 7, # 119). The output portion is interpreted as providing a drive signal to the device. The connector also acts to identify the device attached via an instrument identification portion (Fig. 7, # 116) using a resistance detector (Fig. 2). The probe also contains a second device controlled by a second control portion (Fig. 7, # 122). Switches are disclosed that control the two instruments (Fig. 7, #s 106 & 107). A communications line (Fig. 7, # 108) connects and transfers data between the two control portions. The data may include instrument identification and the status of the switches.

Based on the determination of the identity of the device, the control parameters are set and a determination is made as to whether to interlock the devices; that is whether the devices may operate together or separately. Multiple operational modes are disclosed wherein based on the switch positions, the instruments involved and determination of permission to operate together (interlock), operation may be controlled independently by each switch, or one switch is enabled to control both devices.

From machine translation:

[0073] The above-mentioned 2 foot switch 106 is a switch only related to the ultrasonic output unit 102, and 3 foot switch 107 is a switch relevant to the returning-water suction unit 103 and the ultrasonic output unit 102.

[0074] And if it identifies that the ultrasonic suction probe 104 is connected to the ultrasonic output unit 102 by the probe discernment part 116 The control part 112 sends the signal which performs interlocking control to the control part 122 of the returning-water suction unit 103 through the telecommunication cable 108, and, in response, the control part 122 will be in the state of carrying out interlocking control with the ultrasonic output unit 102. In this case, the control part 122 of the returning-water suction unit 103 receives only operation of 3 foot switch 107 relevant to both the functions of the ultrasonic output unit 102 and the returning-water suction unit 103. It will be in the state of performing the control action which does not receive operation of 2 foot switch 106 only relevant to the function of the ultrasonic output unit 102.

[0075] On the other hand if it identifies that the ultrasonic firm incision probe 105 is connected to the ultrasonic output unit 102 by the probe discernment part 116 The control part 112 sends the signal which forbids

interlocking control to the control part 122 of the returning-water suction unit 103 through the telecommunication cable 108, and, in response, the control part 122 will be in the state of forbidding the ultrasonic output unit 102 and interlocking control. In this case, the control part 122 of the returning-water suction unit 103 receives only operation of 2 foot switch 106, and will be in the state where operation of 3 foot switch 107 is not received. And when 2 foot switch 106 is operated, the operation is only told to the ultrasonic output unit 102 side, and the ultrasonic output unit 102 side performs a control action, when the 2 foot switch 106 is operated.

[0076] Thus, the signal based on the discernment information on the ultrasonic probe as an ultrasonic disposal implement is sent to the returning-water suction unit 103 from the ultrasonic output unit 102 side, and the returning-water suction unit 103 controls interlocking control and the ban on linkage by the sent signal. For this reason, where 3 foot switch 107 for interlocking control and 2 foot switch 106 for interlocking prohibition are connected to the returning-water suction unit 103, it comes to receive the operation by the side of a corresponding foot switch with the sent signal. Therefore, it can be managed even if it does not perform a foot switch's removal of the alternative foot switch which is not connected and used etc. according to the ultrasonic probe which a user uses,

and it has user-friendly composition.

This clearly teaches the control of multiple devices based on their interdependencies. Additional instrument identification connectors are disclosed for multiple devices (Fig. 10, # 119). Takahashi discloses the medical devices as ultrasonic incision and water supply and suction. Takahashi further discloses transmitting of data at fixed intervals which provides

dynamic status of the system based on the data being transmitted. (From machine translation - *When both equipment (apparatus) is not connected, its ID is transmitted for every fixed interval. When the other party's apparatus has not connected, in order that anything may not have an answer, it is recognized as not connecting. When the other party's apparatus is connected, ID is answered from the apparatus. It can be recognized with which apparatus it is connected by this whether it is that the other party's apparatus is connected. Moreover, the exchange of Above ID is carrying out at a fixed interval, even after connecting, and the apparatus connected once can detect the removed no and the physical abnormalities whether communication is performed normally.*).

Takahashi clearly teaches communications between instrument to allow simultaneous operation or to deny such operation. A skilled artisan would understand which instruments may be safely used together and which, based on identification, would create a patient safety concern. It is considered obvious that either instrument would be enabled to initiate a signal to allow or deny simultaneous operation.

Conclusion

Previously cited 35 U.S.C. § 103 rejections provide substantiation of the known techniques to allow or deny simultaneous operations of medical instruments using appropriate signals between the various instruments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M. Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 5:30 AM to 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Henry M. Johnson, III/
Primary Examiner, Art Unit 3739

/HMJ/
4/14/2008